



## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### 2025 Resource Pool--Loveland Area Projects, Allocation Procedures and Call for Applications

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of allocation procedures and call for 2025 Resource Pool applications.

**SUMMARY:** Western Area Power Administration (WAPA), a Federal Power Marketing Administration of the Department of Energy (DOE), is publishing this notice of allocation procedures and call for applications from new preference entities interested in an allocation of Federal firm power. WAPA's Rocky Mountain Region (RMR) published its Loveland Area Projects (LAP)--2025 Power Marketing Initiative (2025 PMI) in the *Federal Register* on December 30, 2013, to be effective January 29, 2014. The 2025 PMI established the criteria for allocating firm power from the LAP beginning October 1, 2024, through September 30, 2054. The 2025 PMI established three resource pools of up to one percent each of the marketable resource under contract at the time of each reallocation to be available for eligible new preference entities. Reallocations will occur at the beginning of the October 1, 2024, contract term and again every 10 years thereafter on October 1, 2034, and October 1, 2044. Therefore, WAPA is issuing a call for applications for the 2025 Resource Pool. New preference entities interested in applying for an allocation of firm power from LAP must submit a written application using the Applicant Profile Data (APD) form and satisfy the General Eligibility Criteria, General Allocation Criteria, and General Contract Principles described in this notice.

**DATES:** WAPA must receive a completed and signed application using the APD form by 4:00 p.m., MST, on November 15, 2021. WAPA will accept applications by email or delivered by U.S. mail. Applications sent by U.S. mail will be accepted if postmarked at least three days

before November 15, 2021, and received no later than November 18, 2021. WAPA reserves the right to not consider an application received after the prescribed date and time.

A single virtual public information forum (not to exceed three hours) addressing the allocation procedures, call for applications, and APD form will be held on Wednesday, October 6, 2021, at 1 p.m., MDT. The public information forum can be accessed 15 minutes in advance of the start time for the public information forum by copying and pasting the following link into your browser:

<https://doe.webex.com/doe/j.php?MTID=m40e148a1ad3464d2f53ea61f8608c48e>.

**ADDRESSES:** If submitting a paper application, please print a completed and signed APD form and mail it to Barton V. Barnhart, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538-8986. If submitting an electronic application, please email a completed and signed APD form to Parker Wicks, Contracts and Energy Services Manager, Rocky Mountain Region, Western Area Power Administration, at [pwicks@wapa.gov](mailto:pwicks@wapa.gov). A completed and signed APD form must be received by WAPA within the time required in the **DATES** section.

**FOR FURTHER INFORMATION CONTACT:** Parker Wicks, Contracts and Energy Services Manager, Rocky Mountain Region, Western Area Power Administration, (970) 461-7202, email [pwicks@wapa.gov](mailto:pwicks@wapa.gov).

**SUPPLEMENTARY INFORMATION:** The 2025 PMI, as published in the *Federal Register* December 30, 2013 (78 FR 79444), extends the current marketing plan, with amendments to key marketing plan principles, and provides the basis for marketing the LAP long-term firm hydroelectric resource beginning October 1, 2024, through September 30, 2054. As part of the 2025 PMI, WAPA will provide for three resource pools of up to one percent of the marketable resource under contract. Service under the first of these pools begins on October 1, 2024, and again every 10 years thereafter (October 1, 2034, and October 1, 2044), until the conclusion of the marketing plan on September 30, 2054. Each reallocation will be placed in a resource pool

from which power allocations to eligible new preference entities will be made. This notice sets forth the following procedures for determining these allocations: (1) the amount of pool resources; (2) general eligibility criteria; (3) general allocation criteria, i.e., how WAPA plans to allocate pool resources to eligible new preference entities as provided for in the Program and the 2025 PMI; (4) general contract principles under which WAPA will sell the allocated power; and (5) applications for firm power, i.e., APD application information required from each applicant. After evaluating applications, if WAPA determines there is one or more eligible applicants, WAPA will publish a Notice of Proposed Allocations in the *Federal Register*. The public will have an opportunity to comment on the Proposed Allocations. After reviewing the comments, WAPA will publish a Notice of Final Allocations in the *Federal Register*. If there are no qualified applicants under the 2025 Resource Pool, WAPA will publish a notice in the *Federal Register* to conclude the 2025 Resource Pool.

## **I. Amount of Pool Resources**

WAPA will allocate up to one percent of the LAP long-term firm hydroelectric resource under contract as of October 1, 2024, to be available for eligible new preference entities, as firm power. “Firm power” means firm capacity and associated energy allocated by WAPA that is subject to the terms and conditions specified in WAPA’s long-term LAP firm electric service contract. The amount of the resource that will become available October 1, 2024, is approximately 6.9 MW for the summer season and 6.1 MW for the winter season.

## **II. General Eligibility Criteria**

WAPA will apply the following general eligibility criteria to applicants seeking an allocation of firm power under the 2025 Resource Pool:

A. All qualified applicants must be preference entities as defined by Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), as amended and supplemented.

B. All qualified applicants must be located within the currently established LAP marketing area. (*See* Section III.C. for a description of the LAP marketing area.)

C. All qualified applicants must not have a current LAP firm electric service contract or be a member of a parent entity who has a LAP firm electric service contract with WAPA.

D. All qualified utility and non-utility applicants must be able to use the firm power directly or be able to sell it directly to retail customers.

E. All qualified utility applicants who are municipalities, cooperatives, public utility districts, or public power districts must attain utility status by October 1, 2021. “Utility status” means the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase firm power from WAPA on a wholesale basis.

F. A qualified Native American applicant must be an Indian Tribe as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)), as amended and supplemented.

### **III. General Allocation Criteria**

WAPA will apply the following general allocation criteria to applicants seeking an allocation of firm power under the 2025 Resource Pool:

A. Allocations of firm power will be made in amounts solely determined by WAPA in exercising its discretion as permitted under Reclamation Law.

B. An allottee will have the right to purchase firm power only after executing a LAP firm electric service contract between WAPA and the allottee and satisfying all conditions for firm electric service delivery in that contract.

C. Firm power allocated under these procedures will be available only to new, qualified applicants residing within LAP’s current marketing area. The LAP current marketing area includes parts of Colorado, Kansas, Nebraska, and Wyoming. LAP’s marketing area is specifically defined as the portion of Colorado east of the Continental Divide, Mountain Parks Electric, Inc.’s service territory in Colorado west of the Continental Divide, the portion of Kansas located in the Missouri River Basin, the portion of Kansas west of the eastern borders of the

counties intersected by the 100th Meridian, the portion of Nebraska west of the 101st Meridian, and the portion of Wyoming east of the Continental Divide.

D. An allocation of firm power made to an Indian Tribe will be based on actual load, or estimated load as developed by the Indian Tribe, in calendar year 2020. WAPA will evaluate and may adjust inconsistent estimates during the allocation process. WAPA is willing to assist Indian Tribes in developing load estimating methods.

E. Allocations made to eligible utility and non-utility applicants will be based on actual calendar year 2020 loads. WAPA will apply the 2025 PMI criteria to these loads, except as stated herein.

F. Firm capacity and energy will be based upon each applicant's calendar year 2020 load factor.

G. Any long-term LAP firm electric service contract offered by WAPA to an eligible applicant is expected to be executed by the applicant no later than September 30, 2022, unless otherwise agreed to in writing by WAPA.

H. The 2025 Resource Pool will be dissolved after September 30, 2022, the closing date for executing firm electric service contracts. Firm power, not under contract or a written contract execution extension, will be used as WAPA determines.

I. The minimum allocation shall be 100 kilowatts (kW).

J. The maximum allocation shall be 5,000 kW. Qualified Native American applicants are not subject to this limitation.

K. Contract rates of delivery shall be subject to adjustment in the future as provided in the 2025 PMI and the firm electric service contract between WAPA and the allottee.

L. If WAPA encounters obstacles to delivering firm electric service to an Indian Tribe, it retains the right to provide the economic benefit of the resource directly to the Indian Tribe.

#### **IV. General Contract Principles**

WAPA will apply the following general contract principles to all allottees receiving an allocation of firm power under the 2025 Resource Pool:

A. WAPA, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on a five years advance written notice in response to changes in hydrology and river operations. Any such adjustments shall take place only after a public process.

B. Each allottee is ultimately responsible for making its own third-party delivery arrangements. WAPA may assist allottees in making third-party transmission arrangements for delivery of firm power.

C. Contracts entered under the 2025 Resource Pool allocation procedures shall provide for WAPA to furnish firm electric service effective October 1, 2024, through September 30, 2054.

D. Contracts entered under the 2025 Resource Pool shall incorporate WAPA's standard provisions for power sales contracts, integrated resource planning, and the General Power Contract Provisions.

## **V. Applications for Firm Power**

Through this notice, WAPA formally requests applications from new qualified preference entities interested in purchasing firm power beginning October 1, 2024, through September 30, 2054. All applicants must submit applications using the APD form. Completed applications for an allocation of firm power under the 2025 Resource Pool must be submitted in writing either via regular postal delivery to the Regional Manager, Rocky Mountain Region, or electronically via email to the Contracts and Energy Services Manager. The APD form must be received by WAPA's Rocky Mountain Region in accordance with the requirements listed herein. WAPA will not consider applications submitted before publication of this notice or after the deadline specified in the **DATES** section. Applications are available either upon request or in fillable Word and PDF versions at <https://www.wapa.gov/regions/RM/PowerMarketing/Pages/2025-Loveland-Area-Projects-Resource-Pool.aspx>.

### *A. Applicant Profile Data Form*

APD form content and format are outlined below. To be considered, each applicant must submit its completed and signed APD form to WAPA's Rocky Mountain Region no later than 4:00 p.m., MST, on November 15, 2021. See the **DATES** and **ADDRESSES** sections listed previously for specific information on submission and deadline requirements. Each applicant must provide all requested information or the most reasonable available estimate and note any requested information that is not applicable or not available. WAPA is not responsible for errors in data, missing data, or missing pages.

*B. Confidential Business Information*

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked “CONFIDENTIAL” including all the information believed to be confidential, and one copy of the document marked “NON-CONFIDENTIAL” with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination. The information collected under this process will not be part of a system of records covered by the Privacy Act and may be subject to disclosure under the Freedom of Information Act (FOIA). If you are submitting any confidential business information, and believe this information is exempt from disclosure under FOIA Exemption 4 (5 U.S.C. 552(b)(4)), please mark such information before submitting your application.

**APPLICANT PROFILE DATA**

All items of information in the Applicant Profile Data (APD) should be answered as if prepared by the entity/organization seeking the allocation of Federal power from Western Area Power Administration (WAPA). The APD shall consist of the following:

**1. Applicant Information. Please provide the following:**

**a. Applicant’s (entity/organization requesting an allocation) name and address:**

<b>Applicant’s Name:</b>	
<b>Address:</b>	
<b>City:</b>	
<b>State:</b>	

Zip:	
------	--

**b. Person(s) representing the applicant:**

Contact Person (Name & Title):	
Address:	
City:	
State:	
Zip:	
Telephone:	
Fax:	
Email Address:	

**c. Type of entity/organization:**

☐ Federal Agency Irrigation  
☐ District  
☐ Municipality  
☐ Native American Tribe Public Utility  
☐ District Rural Electric Cooperative State  
☐ Agency  
☐ Other, please specify:

**d. Parent entity/organization of the applicant, if any:**

**e. Name of the applicant's member organizations, if any:**

*(Separated by commas)*

**f. Applicable law under which the applicant was established:**

**g. Applicant's geographic service area (if available, please submit a map of the service area and indicate the date prepared):**

**h. Describe whether the applicant owns and operates its own electric utility system.**

**i. Provide the date the applicant attained utility status, if applicable. 10 C.F.R. Part 905.35 defines utility status to mean "that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase power from WAPA on a wholesale basis for resale to retail consumers."**

**j. Describe the entity/organization that will interact with WAPA on contract and billing matters (include contact person, email and telephone number).**

**2. Service Requested:**

**a. Provide the amount of power the applicant is requesting to be served by WAPA.**

**3. Applicant's Loads:**

**a. Utility and non-utility applicants:**

- (i) If applicable, provide the number and type of customers served (e.g., residential, commercial, industrial, military base, agricultural):

Customer Type and Number						
	Residential	Commercial	Industrial	Military	Ag.	Other
Number of customers						
If not applicable, explain why:						

- (ii) Provide the actual monthly maximum demand (kilowatts) and energy use (kilowatt-hours) for each calendar month experienced in calendar year 2020:

Calendar Year 2020						
	January	February	March	April	May	June
Demand (kilowatts)						
Energy (kilowatt-hours)						
	July	August	September	October	November	December
Demand (kilowatts)						
Energy (kilowatt-hours)						

- (iii) Provide the annual load factor for calendar year 2020:  
Calendar Year 2020 Annual Load Factor

- (iv) Provide the monthly load factors for calendar year 2020:

Calendar Year 2020 Monthly Load Factor						
	January	February	March	April	May	June
Load Factor						
	July	August	September	October	November	December
Load Factor						

- (v) Identify any factors or conditions in the next 5 years which may significantly change peak demands, load duration, or profile curves.

b. Native American Tribe applicants only:

- (i) Indicate the utility or utilities currently serving your loads:

- (ii) If applicable, provide the number and type of customers served (e.g., residential, commercial, industrial, military base, agricultural):

Customer Type and Number						
	Residential	Commercial	Industrial	Military	Ag.	Other
Number of customers						
If not applicable, explain why:						

- (iii) Provide the actual monthly maximum demand (kilowatts) and energy use (kilowatt-hours) experienced in calendar year 2020. If the actual demand and energy data are not available or are difficult to obtain provide the estimated monthly demand:

Calendar Year 2020						
	January	February	March	April	May	June
Demand (kilowatts)						
Energy (kilowatt-hours)						
	July	August	September	October	November	December
Demand (kilowatts)						
Energy (kilowatt-hours)						

- (iv) If the demand and energy data in 3.b.(iii) above is estimated, provide a description of the method and basis for this estimation in the space provided below:

- (v) Provide the actual annual load factors for calendar year 2020. If the actual load factors are not available, provide the estimated load factors:

Calendar Year 2020 Annual Load Factor

- (vi) Provide the actual monthly load factors for calendar year 2020. If the actual load factors are not available, provide the estimated load factors.

Calendar Year 2020 Monthly Load Factor						
	January	February	March	April	May	June
Load Factor						
	July	August	September	October	November	December
Load Factor						

- (vii) If the load factor data in 3.b.(v-vi) is estimated, provide a description of the method and basis for this estimation in the space provided below:

- (viii) Identify any factors or conditions in the next 5 years which may significantly change peak demands, load duration, or profile curves:

**4. Applicant's Resources. Please provide the following information:**

- a. A list of current power supplies if applicable, including the applicant's own generation, as well as, purchases from others. For each supply, provide the resource name, capacity supplied, and the resource's location.

Power supplies (resource name, capacity & location):

- b. For each power supplier, provide a description and status of the power supply contract (including the termination date):

- c. For each power supplier, provide the type of power:

☐ Power supply is on a firm basis.

☐ Power supply is not on a firm basis. Please explain:

**5. Transmission:**

- a. **Points of delivery.** Provide the requested point(s) of delivery on WAPA's transmission system (or a third party's transmission system), the voltage of service required, and the capacity desired, if applicable.

- b. **Transmission arrangements.** Describe the transmission arrangements necessary to deliver firm power to the requested points of delivery. Include a brief description of the applicant's transmission and distribution system including major interconnections. Provide a single-line drawing of applicant's system, if one is available.

- c. **Provide a brief explanation of the applicant's ability to receive and use, or receive and distribute Federal power as of [date].**

**6. Other Information.** The applicant may provide any other information pertinent to receiving an allocation.

**7. Signature:** WAPA requires the signature and title of an appropriate official who is able to attest to the validity of the APD and who is authorized to submit the request for an allocation.

By signing below, I certify the information I have provided is true and correct to the best of my information, knowledge and belief.

Signature \_\_\_\_\_ Title \_\_\_\_\_

Org. Code \_\_\_\_\_

Applications may be submitted by U.S. mail to the address below or electronically to [pwicks@wapa.gov](mailto:pwicks@wapa.gov) with an electronic signature. If submitting this application electronically and an electronic signature is not available, please fax, upload or otherwise transmit this page with a signature to (970) 461-7213, or mail it to Rocky Mountain Region, Western Area Power Administration, Attention J6200, 5555 East Crossroads Boulevard, Loveland, CO 80538-8986.

**RECORDKEEPING REQUIREMENTS:** If WAPA accepts your application and you receive an allocation of Federal power you must keep all records associated with your APD for a period of 3 years after you sign your contract for Federal power. If you do not receive an allocation of Federal power, there is no recordkeeping requirement.

WAPA has obtained an OMB Clearance Number 1910-5136 for the collection of the above information.

The data are being collected to enable WAPA to properly perform its function of marketing limited amounts of Federal hydropower. The data you supply will be used by WAPA to evaluate who will receive an allocation of Federal power.

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Ronald J. Klinefelter, Paperwork Reduction Act Comments, Western Area Power Administration, P.O. Box 281213, 12155 W.

Alameda Parkway, Lakewood, CO 80228; and to the Office of Management and Budget (OMB), OIRA, Washington, DC 20503.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Submission of this data is voluntary, however if an entity seeks an allocation of Federal power, the applicant must submit an APD.

### *C. WAPA's Consideration of Applications*

1. Upon receipt, WAPA will review the APD form and verify that each applicant meets the general eligibility criteria set forth in Section II above.

a. WAPA will request, in writing, additional information from any applicant whose APD form is deficient. The applicant shall have 15 calendar days from the date on WAPA's request letter to provide, in writing, the requested information. If the requested information is not provided within that time period, the application will not be considered.

b. If WAPA determines that an applicant does not meet the general eligibility criteria, WAPA will send a letter explaining why the applicant did not qualify.

c. If an applicant meets the general eligibility criteria, WAPA will determine the amount of firm power to be allocated under the general allocation criteria set forth in Section III above. WAPA will send for the applicant's review a draft firm electric service contract, which contains the terms and conditions of the offer and the amount of firm power allocated to the applicant.

2. WAPA reserves the right to determine the amount of firm power to allocate to an applicant, as justified by an applicant's APD form.

## **VI. Regulatory Procedure Requirements**

### *A. Review Under the National Environmental Policy Act (NEPA)*

WAPA has determined this action fits within the following categorical exclusion listed in appendix B to subpart D of 10 CFR part 1021.B4.1 (Contracts, policies, and marketing and allocation plans for electric power). Categorically excluded projects and activities do not require

preparation of either an environmental impact statement or an environmental assessment.<sup>1</sup> Specifically, WAPA has determined this rulemaking is consistent with activities identified in part B4, Categorical Exclusions Applicable to Specific Agency Actions (see 10 CFR part 1021, appendix B to subpart D, part B4). A copy of the categorical exclusion determination is available on WAPA-RMR's website at:

<https://www.wapa.gov/regions/RM/environment/Pages/CX2021.aspx>. Look for the file entitled "2021-091 LAP 2025 Resource Pool CX."

#### *B. Review Under Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), WAPA has received approval from the Office of Management and Budget for the collection of customer information in this rule, under OMB control number 1910-5136.

#### *C. Determination Under Executive Order 12866*

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

### **Signing Authority**

This document of the Department of Energy was signed on September 10, 2021, by Tracey A. LeBeau, Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been

---

<sup>1</sup> The determination was done in compliance with NEPA (42 U.S.C. 4321-4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on September 15, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer,*

*U.S. Department of Energy.*

[FR Doc. 2021-20242 Filed: 9/17/2021 8:45 am; Publication Date: 9/20/2021]